



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

FALL MOUNTAIN TEACHERS ASSOCIATION/ :
NEA-NEW HAMPSHIRE :

Complainant :

v. :

FALL MOUNTAIN REGIONAL SCHOOL BOARD :

Respondent :

CASE NO: T-0227:13

DECISION NO. 92-68

APPEARANCES

Representing Fall Mountain Teachers Association/NEA-NH:

Mary E. Gaul, UniServ Director

Representing Fall Mountain Regional School Board:

Douglas Hatfield, Jr., Esq., Counsel

Also appearing:

Kathleen Holt, School District

BACKGROUND

On November 14, 1991, the Fall Mountain Teachers' Association, NEA/New Hampshire (Association) filed unfair labor practice (ULP) charges against the Fall Mountain Regional School Board alleging violations of RSA 273-A:5 I (a), (c), (d), (e), (g), (h) and (i) relative to an arbitration award which the Board allegedly failed to implement. The Fall Mountain Regional School Board filed its answer on November 21, 1991, denying the allegations and seeking costs for the defense of this complaint. The matter was then set for hearing and heard by the PELRB on April 2, 1992.

At the opening of that hearing, the PELRB learned that this case involved seniority rights of a math teacher who was furloughed, filed a grievance, and prevailed in an arbitration

proceeding. The arbitrator's award directed the Board to (1) offer the grievant a teaching contract for the 1991-92 school year, (2) make her whole, and (3) "comply with the Contract in a manner consistent with this award in future cases of reduction in force." The ULP pending before the PELRB contends that the Board did not comply with the award when it offered the grievant employment in another specialty for which she was certified rather than in the math department. The Board contends, to the contrary, that its actions did comply with the award.

After opening statements were heard by the PELRB, it was apparent that the parties' lack of common understanding of the arbitration award might become a mutual understanding of that document if a clarification were to be sought from the arbitrator by the parties. The parties then met, not in the presence of the PELRB, and identified four issues of clarification to be addressed to the arbitrator. They were:

1. Whether the District complied with the award when it offered a Special Education position for the 1991-92 school year?
2. Whether the District's actions complied with paragraph 3 of the award?
3. Should the "make whole" remedy set forth in paragraph 2 be modified as a result of an October offer of employment and/or the delay in clarification?
4. Whether costs or fees should be awarded to either side as a result of the delay in clarification.

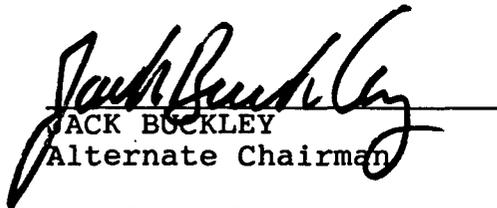
The Board then directed the parties:

1. To notify it when they received the results of the clarification request from the arbitrator.
2. That the pending ULP would be dismissed from the PELRB's docket of cases thirty (30) days after receipt of clarification

by the arbitrator if a motion to reactivate this matter is not received by the PELRB within the aforesaid thirty (30) day period.

So ordered.

Signed this 9th day of April, 1992.


JACK BUCKLEY
Alternate Chairman

By unanimous vote. Chairman Jack Buckley presiding.
Seymour Osman and Arthur Blanchette present and voting.

Members